

## ORDINANCE NO. 20336

**AN ORDINANCE CONCERNING MOTOR VEHICLE FUEL DEALER'S BUSINESS LICENSES; AND AMENDING SECTIONS 3.465, 3.474, 3.480, 3.483, AND 3.484 OF THE EUGENE CODE, 1971.**

### **THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:**

**Section 1.** The definition of "weight receipt" is added to Section 3.465 of the Eugene Code, 1971, in alphabetical order, to provide:

**3.465     Definitions.** As used in sections 3.465 through 3.489 of this chapter, unless the context requires otherwise the following words and phrases shall mean:

**Weight Receipt.** A receipt issued by the Oregon Department of Transportation, stating the combined weight of each self-propelled or motor-driven vehicle.

**Section 2.** Section 3.474 of the Eugene Code, 1971, is amended to provide:

**3.474     Payment of Tax and Delinquency.**

- (1)** The license tax imposed by sections 3.465 to 3.489 of this chapter shall be paid to the tax administrator on or before the 25th day of each month.
- (2)** Except as provided in subsections (3) and (5) of this section, if payment of the license tax is not paid as required by subsection (1) of this section, a penalty of 1 percent of such license tax shall be assessed and be immediately due and payable.
- (3)** Except as provided in subsection (5) of this section, if the payment of the tax and penalty, if any, is not made on or before the 1st day of the next month following that month in which payment is due, a further penalty of 10 percent of the tax shall be assessed. Said penalty shall be in addition to the penalty provided for in subsection (2) of this section and shall be immediately due and payable.
- (4)** If the license tax imposed by sections 3.465 to 3.489 of this code is not paid as required by subsection (1) of this section, interest shall be charged at the rate of .0329 percent per day until the tax, interest and penalties have been paid in full.
- (5)** Penalties imposed by this section shall not apply if a penalty has been assessed and paid pursuant to section 3.470. The tax administrator may for good cause shown waive any penalties assessed under this section.

- (6) If any person fails to pay the license tax, interest, or any penalty provided for by this section, the tax, interest, and/or penalty shall be collected from that person for the use of the city. The tax administrator shall commence and prosecute to final determination in any court of competent jurisdiction an action at law to collect the same.
- (7) In the event any suit or action is instituted to collect the business license tax, interest, or any penalty provided for by this section, if the City is the prevailing party, the City shall be entitled to recover from the person sued reasonable attorney's fees at trial or upon appeal of such suit or action, in addition to all other sums provided by law.

**Section 3.** Subsections (1)(b) and (6) of Section 3.480 of the Eugene Code, 1971, are amended to provide:

**3.480      Exemption of Export Fuel.**

- (1) The license tax imposed by section 3.466 shall not be imposed on motor vehicle fuel:
  - (b) Sold by a dealer for export by the purchaser to an area or areas outside the city in containers other than the fuel tank of a motor vehicle, but every dealer shall be required to report such exports and sales to the city in such detail as may be required.
- (6) In support of any exemption from taxes on account of sales of motor vehicle fuel for export by the purchaser, the dealer shall retain in his/her files for at least three years, an export certificate executed by the purchaser in such form and containing such information as is prescribed by the tax administrator. This certificate shall be prima facie evidence of the exportation of the motor vehicle fuel to which it applies only if accepted by the dealer in good faith.

**Section 4.** Section 3.483 of the Eugene Code, 1971, is amended to provide:

**3.483      Refunds.**

- (1) Refunds of tax on motor vehicle fuel will be made pursuant to any refund provisions of Chapter 319 of the Oregon Revised Statutes, including but not limited to ORS 319.280 and 319.831. Claim forms for refunds may be obtained from the Tax Administrator's office.
- (2) A holder of a weight receipt that certifies to the city that the motor vehicle fuel upon which the tax was imposed will be used only for fueling vehicles subject to the State of Oregon's weight-mile tax, may apply for a refund of 80 percent of the tax imposed by Section 3.467 of this code on motor vehicle fuel purchased in bulk for distribution at the weight receipt holder's facility located within the city. This subsection

applies only to motor vehicle fuel purchased by the weight receipt holder on or after February 23, 2005.

- (3) All claims for refund under subsection (2) of this section shall be filed within 15 months of the date that the fuel was purchased and may not be filed more frequently than quarterly. The minimum claim for refund filed under subsection (2) of this section shall be not less than \$25.00.


**Section 5.** Section 3.484 of the Eugene Code, 1971, is amended to provide:

**3.484**     **Examinations and Investigations.** Pursuant to section 2.019 of this code, the tax administrator, or duly authorized agents, may make any examination of accounts, records, stocks, facilities and equipment of dealers, service stations and other persons engaged in storing, selling or distributing motor vehicle fuel or other petroleum product or products within this city, and such other investigations as it considers necessary in carrying out the provisions of sections 3.465 through 3.489. If the examinations or investigations disclose that any reports of dealers or other persons theretofore filed with the tax administrator pursuant to the requirements herein, have shown incorrectly the amount of gallonage of motor vehicle fuel distributed or the tax accruing thereon, the tax administrator may make such changes in subsequent reports and payments of such dealers or other persons, or may make such refunds, as may be necessary to correct the errors disclosed by its examinations or investigation. The dealer shall reimburse the city for the reasonable costs of the examination or investigation if the action discloses that the dealer paid 95 percent or less of the tax owing for the period of the examination or investigation. In the event that such an examination or investigation results in an assessment by and an additional payment due to the city, such additional payment shall be subject to interest at the rate of .0329 percent per day from the date the original tax payment was due.

**Section 6.** The City Recorder, at the request of, or with the concurrence of the City Attorney, may administratively correct any reference errors contained herein or in other provisions of the Eugene Code, 1971 to the provisions added, amended or repealed herein.

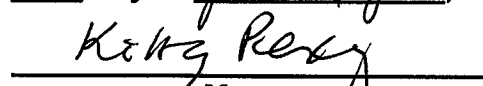
Passed by the City Council this

24<sup>th</sup> day of January, 2005

  
Deputy City Recorder

Approved by the Mayor this

26 day of January, 2005

  
Mayor